

AMENDED IN SENATE JUNE 4, 2014  
AMENDED IN SENATE JUNE 2, 2014  
AMENDED IN SENATE JUNE 18, 2013  
AMENDED IN ASSEMBLY MAY 28, 2013  
AMENDED IN ASSEMBLY MAY 9, 2013  
AMENDED IN ASSEMBLY APRIL 23, 2013  
AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 609**

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**Introduced by Assembly Members Nestande and Gatto**  
**(Coauthors: Assembly Members Beth Gaines, Maienschein, Olsen,**  
**and Skinner)**  
(Coauthor: Senator Hill)

February 20, 2013

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An act to add and repeal Chapter 2.5 (commencing with Section 13989) of Part 4.5 of Division 3 of Title 2 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 609, as amended, Nestande. State-funded research.

Existing law authorizes the Department of General Services to carry out various powers and duties relating to assisting a state agency in the management and development of intellectual property developed by state employees or with state funding, including, among other duties,

developing a database of state-owned intellectual property using specified data.

Existing law authorizes state agencies and departments to, upon request, share records and information related to intellectual property generated by state employees or with state funding with the department. Existing law also imposes certain restrictions on employees and former employees of the department with respect to divulging certain information provided by state agencies and departments regarding intellectual property.

This bill would enact, until January 1, 2020, the California Taxpayer Access to Publicly Funded Research Act. The bill would establish publication requirements for a grantee receiving funding, in whole or in part, in the form of a research grant from a state agency. The bill would require a state agency providing funding in the form of a research grant to include specified terms and conditions that are required to be adhered to as a condition of the grantee receiving the research grant. The bill would require the grantee to provide for public access to any publication of a state agency-funded invention or state agency-funded technology, as specified, including submitting an electronic version of the peer-reviewed manuscript to the state agency or to an appropriate publicly accessible database approved by the state agency to be made publicly available not later than 12 months after the official date of publication, except as specified. The bill would provide that this act does not apply to a grantee that receives funding from a state agency that has an existing publication requirement that meets or exceeds the requirements of this bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 2.5 (commencing with Section 13989)  
2 is added to Part 4.5 of Division 3 of Title 2 of the Government  
3 Code, to read:

4  
5 CHAPTER 2.5. STATE-FUNDED RESEARCH

6  
7 13989. This act shall be known and may be cited as the  
8 California Taxpayer Access to Publicly Funded Research Act.

1 13989.2. For the purposes of this chapter the following  
2 definitions shall apply:

3 (a) “Peer-reviewed manuscript” means a manuscript after it has  
4 been peer reviewed and in the form in which it has been accepted  
5 for publication in a scientific journal.

6 (b) “State agency” has the same meaning as defined in Section  
7 10295.1 of the Public Contract Code.

8 13989.4. (a) The Legislature finds and declares all of the  
9 following:

10 (1) The state is home to many of the world’s top research  
11 universities, national laboratories, and leading-edge  
12 high-technology companies that generate significant intellectual  
13 property.

14 (2) It is in the interest of the state to ensure that the results of  
15 state-funded research are promptly developed and protected and  
16 to ensure free public Internet access to the results, where  
17 appropriate.

18 (3) The expansion of innovation with the investment of taxpayer  
19 dollars in the form of publicly funded grants could generate public  
20 benefit, including, but not limited to, reinvestment in research,  
21 development of new innovations, and jobs created from these types  
22 of research.

23 (b) It is the intent of the Legislature that any grantee who  
24 receives funding in the form of a research grant from a state agency  
25 abide by the publication requirements outlined in subdivisions (a)  
26 to (d), inclusive, of Section 100303 of Title 17 of the California  
27 Code of Regulations, as amended on March 21, 2013, and in effect  
28 on July 1, 2013.

29 13989.6. (a) (1) Any grantee that receives funding, in whole  
30 or in part, in the form of a research grant from a state agency shall  
31 provide for free public access to any publication of a state  
32 agency-funded invention or state agency-funded technology, as  
33 provided in this section.

34 (2) A state agency that provides funding, in whole or in part, in  
35 the form of a research grant shall include the following terms and  
36 conditions in the research grant that are required to be adhered to  
37 by the grantee as a condition of receiving the research grant:

38 (A) Pursuant to subdivision (b), grantees may provide data to  
39 the state agency to request that the 12-month time period be  
40 extended ~~by up~~ to 18 months.

1 (B) Grantees are responsible for ensuring that any publishing  
2 or copyright agreements concerning submitted articles fully comply  
3 with this section.

4 (C) Grantees shall report to the state agency the final disposition  
5 of the research grant, such as, but not limited to, if it was published,  
6 when it was published, where it was published, ~~and~~, when the  
7 12-month time period that may be extended by ~~up to~~ 18 months  
8 pursuant to subdivision (b) expires, and where the manuscript will  
9 be available for open access.

10 (D) State agencies shall retain information regarding all issued  
11 research grants that resulted in published works.

12 (b) For any manuscript that is accepted for publication in a  
13 peer-reviewed journal, pursuant to the terms and conditions of the  
14 grant, the grantee shall submit an electronic version of the  
15 peer-reviewed manuscript to the state agency or to an appropriate  
16 publicly accessible database approved by the state agency,  
17 including, but not limited to, the University of California's  
18 eScholarship Repository at the California Digital Library, PubMed  
19 Central, or the California Digital Open Source Library, to be made  
20 publicly available not later than 12 months after the official date  
21 of publication. If the grantee provides data to the state agency  
22 showing there is a more appropriate time period for that field of  
23 study, the grantee may request that the not later than 12-month  
24 time period be extended by ~~up to~~ 18 months. Manuscripts submitted  
25 to the California Digital Open Source Library shall be exempt  
26 from the requirements in subdivision (b) of Section 66408 of the  
27 Education Code. The grantee shall make reasonable efforts to  
28 comply with this requirement through submission of the manuscript  
29 to an approved publicly accessible database, including notifying  
30 the state agency of submission. If the grantee is unable to submit  
31 the manuscript to an approved publicly accessible database, the  
32 grantee may comply by providing the manuscript to the state  
33 agency, not later than 12 months after the official date of  
34 publication. In lieu of the peer-reviewed manuscript, the grantee  
35 may submit the final published article.

36 (c) For publications other than those described in subdivision  
37 (b), including meeting abstracts, the grantee shall comply by  
38 providing the manuscript to the state agency not later than 12  
39 months after the official date of publication.

1 (d) (1) Grantees are responsible for ensuring that any publishing  
2 or copyright agreements concerning submitted articles fully comply  
3 with this section.

4 (2) Nothing in this chapter shall be construed to authorize any  
5 use of a peer-reviewed manuscript that would constitute an  
6 infringement of copyright under the federal copyright law described  
7 in Section 101 of Title 17 of the United States Code and following.

8 (e) Grantees are authorized to use grant money for publication  
9 costs, including fees charged by a publisher for color and page  
10 charges, or fees for digital distribution.

11 (f) This chapter shall not apply to a grantee that receives funding  
12 from a state agency that has an existing publication requirement  
13 that meets or exceeds the requirements of this section, on or before  
14 the effective date of this chapter.

15 13989.8. This chapter shall remain in effect only until January  
16 1, 2020, and as of that date is repealed, unless a later enacted  
17 statute, that is enacted before January 1, 2020, deletes or extends  
18 that date.